

In the Office Action the Examiner indicated that claims 1-4 were rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. patent to Muggli in view of the U.S. patent to Lewis.

Before the analysis of the prior art, it is believed to be advisable to emphasize the new features of the present invention as defined in claim 1, the broadest claim on file.

In the inventive danger warning system with a central station and modules connected via at least one series connection, means are provided in the central station for determining a distance between the central station and the modules to determine an installation site of each of the modules, and these means evaluate a charging time of the energy store when the modules are triggered by the central station and the energy stored is charged in the central station, which charging time of the energy store is indicative of the installation site of each of the modules.

Turning now to the references applied by the Examiner and in particular to the patent to Muggli, et al, it is believed to be clear that the Examiner admitted that this reference did not disclose means provided in the central station for determining a distance between the central station and modules to determine an installation site of each of the modules in the system, wherein the modules are triggered by the central station such that an energy store is charged in the

central station, and whereby the means for determining the distance evaluate the charging time of the energy store, which charging time is indicative of the installation site of each of the modules. The Examiner however indicated that the patent to Lewis disclosed these features. Applicant has to respectfully disagree with this position for the following reasons.

The patent to Lewis discloses that capacitors (10) of the sensors (5a to 5e) are charged to the voltage which is applied to the sheath by the base station (4), as explained in column 2, lines 47-49. With all capacitors fully charged, a monitoring sequence is triggered, as explained in column 2, lines 57-59. The purpose of the capacitors (10) of the sensors (5a to 5e) is to assure the power supply of the sensors (5a to 5e) during the monitoring sequence.

In the patent to Lewis the base station does not comprise capacitors. Instead, the base station (4) is a power supply. The purpose of the base station (4) is to charge in the capacitors (10) of the sensors (5a to 5e). Therefore, the patent to Lewis does not disclose that an energy store is charged in the central station. Furthermore, the patent to Lewis does not disclose that the charging time is evaluated. Instead, this reference only discloses that the intervals between the measurements are sufficiently long so that the capacitors (10) are fully charged, as explained in column 2, lines 49-56. The evaluation does not take place. Therefore it is believed to be clear that the patent to Lewis does not disclose means for determining the distance evaluating the charging time.

Moreover, the patent to Lewis does not disclose determining a distance between the central station and the modules.

In view of the above presented analysis, it is believed to be clear that the patent to Lewis does not teach the new features of the present invention as now defined in claim 1.

As for the combination of the references proposed by the Examiner in his rejection of the claims based on obviousness, it is respectfully submitted that none of the references teach the new features of the present invention as defined in claim 1. Therefore, a combination of the references would not lead to the applicant's invention since a hypothetical construction produced from such a combination would not be identical to the danger warning system of the present invention as defined in claim 1.

In order to arrive at the applicant's invention as defined in claim 1 from the combination of the references, the references have to be fundamentally modified by including into them the features which were first proposed by the applicant. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such modification.

This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals, which for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest, it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely, the references do not contain any hint or suggestion for such modifications.

In view of the above presented remarks and amendments, it is believed that claims 1-4 should be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should

the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,

/ Michael J. Striker /

Michael J. Striker
Attorney for Applicants
Reg. No. 27233